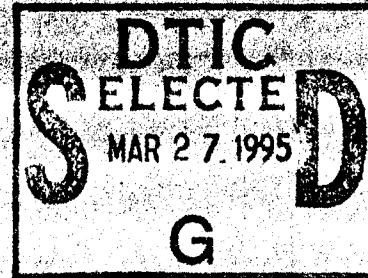


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Initial Preparation of the
Ratification of the Future

Action of 1995



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Resources, Community, and
Economic Development Division

B-247512

February 14, 1992

The Honorable Patrick J. Leahy
Chairman
The Honorable Richard G. Lugar
Ranking Minority Member
Committee on Agriculture,
Nutrition, and Forestry
United States Senate

The Honorable E (Kika) de la Garza
Chairman
The Honorable E. Thomas Coleman
Ranking Minority Member
Committee on Agriculture
House of Representatives

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The Farms for the Future Act of 1990, enacted on November 28, 1990, authorizes the establishment of the Agricultural Resource Conservation Demonstration Program—a new program intended to promote the preservation of farmland for future generations through federal loan payment guarantees and interest assistance. The Food, Agriculture, Conservation, and Trade Act Amendments of 1991, enacted on December 13, 1991, amended the Farms for the Future Act, requiring, among other things, that we periodically report to your Committees on the Secretary of Agriculture's implementation of the act. This report responds to that requirement.

Results in Brief

The Farmers Home Administration (FmHA), the agency to which the U.S. Department of Agriculture (USDA) has delegated responsibility for administering the demonstration program, published in the Federal Register proposed regulations to implement the program on September 24, 1991. Before FmHA published the final regulations, the 1991 amendments to the Farms for the Future Act made changes to the program that required FmHA to modify its proposed regulations. On February 4, 1992, FmHA published interim regulations in the Federal Register, making the program operational on that date. As of February 10, 1992, FmHA had not guaranteed any loans under the program.

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DRAFT STATUS REPORT

Background

The Farms for the Future Act authorizes a demonstration program to guarantee loans and subsidize interest rates to help states finance efforts to protect farmland. Under the program, FmHA guarantees for 10 years the timely payment of principal and interest due on loans made by lending institutions to state trust funds. The state can use loan funds for purposes such as (1) purchasing development rights, conservation easements, or other interests in land; (2) paying the loan guarantee fee charged by FmHA; and (3) making investments to generate earnings to be used for future farmland preservation efforts. Interest rates on loans cannot exceed 10 percent. In addition to guaranteeing loans, the program subsidizes the borrower's (the state's) interest payments fully for 5 years and by at least 3 percent for an additional 5 years. The program will expire on September 30, 1996. Although no new loans will be guaranteed after that date, guarantees and interest assistance payments will continue until all program agreements end.

Each eligible state may receive up to \$10 million in loan guarantees each fiscal year but must contribute an amount for farmland protection equal to at least one-half of the amount of the loan guaranteed by FmHA. The act identifies Vermont as an eligible state and specifies that if appropriations are available, the Secretary of Agriculture may designate other states as eligible, provided that they have met certain conditions. They must, for example, have operated a land preservation fund on or before August 1, 1991. Currently, Vermont is the only state that qualifies for the program because no appropriations are available for other states to participate.

The 1990 act established procedures to enable the Secretary of the Treasury to convey funds to the Secretary of Agriculture for implementing a demonstration program. The act directed the Secretary of Agriculture to issue stock for purchase by the Secretary of the Treasury. The 1991 amendments to the act further stipulated that if the Secretary of Agriculture failed to issue stock, the Secretary of Agriculture should use funds from USDA's Commodity Credit Corporation to implement the demonstration program.¹

The 1990 act required the Secretary of Agriculture to issue regulations to implement the program but did not specify a date by which the regulations were to be published. The 1991 amendments directed the Secretary to

¹USDA officials informed us on February 10, 1992, that they would instead obtain funds for the program by using other budget authority, which allows FmHA to obtain funds from the Department of the Treasury. We did not examine the implications of these actions.

publish implementing interim regulations in the Federal Register no later than December 31, 1991.

Finally, the 1990 act required the Secretary of Agriculture to enter into an agreement with the state of Vermont by December 30, 1990, to establish a demonstration program in Vermont.

Actions USDA Has Taken to Implement the Program

In November 1990, FmHA questioned whether appropriations would be available for funding the program and asked USDA's Office of General Counsel

- whether the Congress had to appropriate funds for the program before FmHA could enter into agreements to guarantee loans and subsidize interest rates, and
- whether the Secretary could operate the program in Vermont, once the appropriate regulations were issued, before the Congress appropriated funds specifically for the program.

In March 1991, USDA's Office of General Counsel responded to FmHA's request, drawing two principal conclusions:

- The FmHA Administrator should not enter into agreements obligating the Administrator to make loan guarantee and interest subsidy payments until funds for such payments were available.
- Because the Farms for the Future Act identified no source of funds for the Secretary of the Treasury to use to purchase stock from the Secretary of Agriculture, implementing the program, even in Vermont, would violate the Antideficiency Act, which prohibits expenditures and obligations in advance, or in excess, of appropriations.

In May 1991, the Chairman of the Senate Committee on Agriculture, Nutrition, and Forestry asked us for our opinion as to whether appropriations were available for Vermont to begin the program and whether implementation of the program in Vermont would violate the Antideficiency Act. Our opinion differed from that of USDA's Office of General Counsel. On July 19, 1991, we stated that the Farms for the Future Act established a source of funds for an agreement with Vermont to set up a pilot project: The Secretary of the Treasury could use the proceeds from the sale of public debt securities to purchase the stock issued by the Secretary of Agriculture. We also stated that the Secretary of Agriculture

would not violate the Antideficiency Act by entering into such an agreement.

In August 1991, USDA's Office of General Counsel advised the Secretary of Agriculture that, after reviewing the Farms for the Future Act, the legislative history of the act, and our July 19, 1991, opinion, no violation of the Antideficiency Act would occur if the Secretary were to implement the Farms for the Future Act in Vermont.

On September 24, 1991, FmHA published in the Federal Register proposed regulations to implement the program. FmHA allowed interested parties until November 13, 1991, to comment on the regulations. Then, before FmHA published the final regulations, the 1991 amendments to the act made changes to the program that required FmHA to modify its proposed regulations. On December 18, 1991, FmHA sent the modified regulations to the Office of Management and Budget (OMB) for OMB's review and approval. OMB gave FmHA clearance to publish the regulations on January 28, 1992, and on February 4, 1992, FmHA published the interim regulations in the Federal Register. The program became operational on that date. As of February 10, 1992, FmHA had not guaranteed any loans under the program. However, an FmHA official told us that he believed that the Vermont Housing and Conservation Board would soon apply for a loan guarantee.

Agency Comments

We discussed the information in this report with responsible FmHA officials, who agreed with the facts. Their comments have been incorporated in the report where appropriate. As agreed with your offices, we did not obtain written agency comments on a draft of this report.

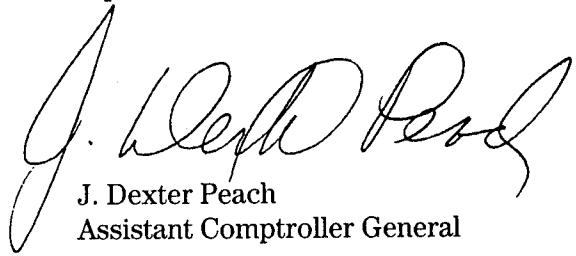
Scope and Methodology

We met with FmHA officials to discuss the steps taken by USDA to implement the Agricultural Resource Conservation Demonstration Program. We also reviewed FmHA's records relating to the program.

We conducted our work in January and February 1992 in accordance with generally accepted government auditing standards.

We are sending copies of this report to the Secretary of Agriculture; the Administrator, FmHA; the Director, Office of Management and Budget; and other interested parties. We will make copies available to others upon request.

This report was prepared under the direction of John W. Harman, Director, Food and Agriculture Issues, who may be reached on (202) 275-5138 if you or your staff have any questions. Other major contributors to this report are listed in appendix I.



J. Dexter Peach
Assistant Comptroller General

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